

FREDERICK COUNTY BOARD OF APPEALS
VIRTUAL HEARING STAFF REPORT for March 24, @ 7pm

Case Number: B-22-08 (B267949)

Applicants: Myron & Kristen Custer
1711 Field Road
Adamstown, MD 21710

Appeal: Requesting a Variance of 10 feet from the 50-foot front yard setback and 20 feet from the 50-foot rear yard setback to construct a Single Family Dwelling

Location: South side of Old Swimming Pool Road (4969 Old Swimming Pool Road, Tax ID #24-466329, Lot 2)

Planning Region: Middletown

Zoning District: Resource Conservation (RC)

Comp. Plan Designation: Natural Resources

Applicable Ordinances: Sec. 1-19-3.220 Variances
Sec. 1-19-6.100 Design Requirements

Background:

The subject parcel is currently zoned Resource Conservation (RC) and contains 2.74 acres. It was rezoned from Agricultural (Ag) zoning to RC after the adoption of the 2010 Comprehensive Plan. Section 1-19-6.100 of the Frederick County Zoning Ordinance (Ordinance) requires a 50-foot setback from all property lines for Single Family Dwellings located within the Resource Conservation (RC) zoning district, as well as a 10 acre minimum lot size.

This same variance was requested and approved by the Board in 2016 (Case No. B-16-16), but expired before the proposed home could be built.

Proposal:

The Applicants are requesting a variance of 10 feet from the 50-foot front yard setback and 20 feet from the 50-foot rear setback. If the Board should find it appropriate to grant this request, it will provide the Applicants with the same setback requirements that were in place prior to the 2010 rezoning of the subject parcel. The Applicant has noted in meetings with staff that, due to the narrowness of the existing lot, the buildable envelope provided by the RC setback limitations prevents the Applicant from building a house consistent with the size of other houses in the neighborhood.

§1-19-3.220 - General Criteria - Variances:

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.
- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

The Applicant states that they were directed to the Board of Appeals process by the Frederick County Division of Planning.

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

The Applicants state that this lot is smaller than a typical RC zoned property; it was previously zoned Ag and is located in a subdivision where all other lots except one are zoned R1. In addition, two acres of the subject parcel are under a Forest Resource Ordinance (FRO) easement, which further restricts the possible building envelope.

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:

- (a) That the special conditions and circumstances do not result from the actions of the applicant; and

The Applicants state that the special condition is the size and shape of the lot and the zoning requirements under the RC zoning district, neither of which resulted from actions of the Applicants.

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Code would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter; and

The Applicants state that the hardship is that the size and shape of the lot and the required setbacks under the RC zoning district make it very difficult if not impossible to build a reasonably-sized home.

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 of the Frederick County Code to other lands or structures in the same district; and

The Applicants state that the variance will not confer any special privileges on them as they are only asking to be able to construct a reasonably sized home on the subject parcel.

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Applicants state that the proposed home will be similar to many of the others homes that exist in this part of the County. A single family home will be consistent with the surrounding lower density residential areas.

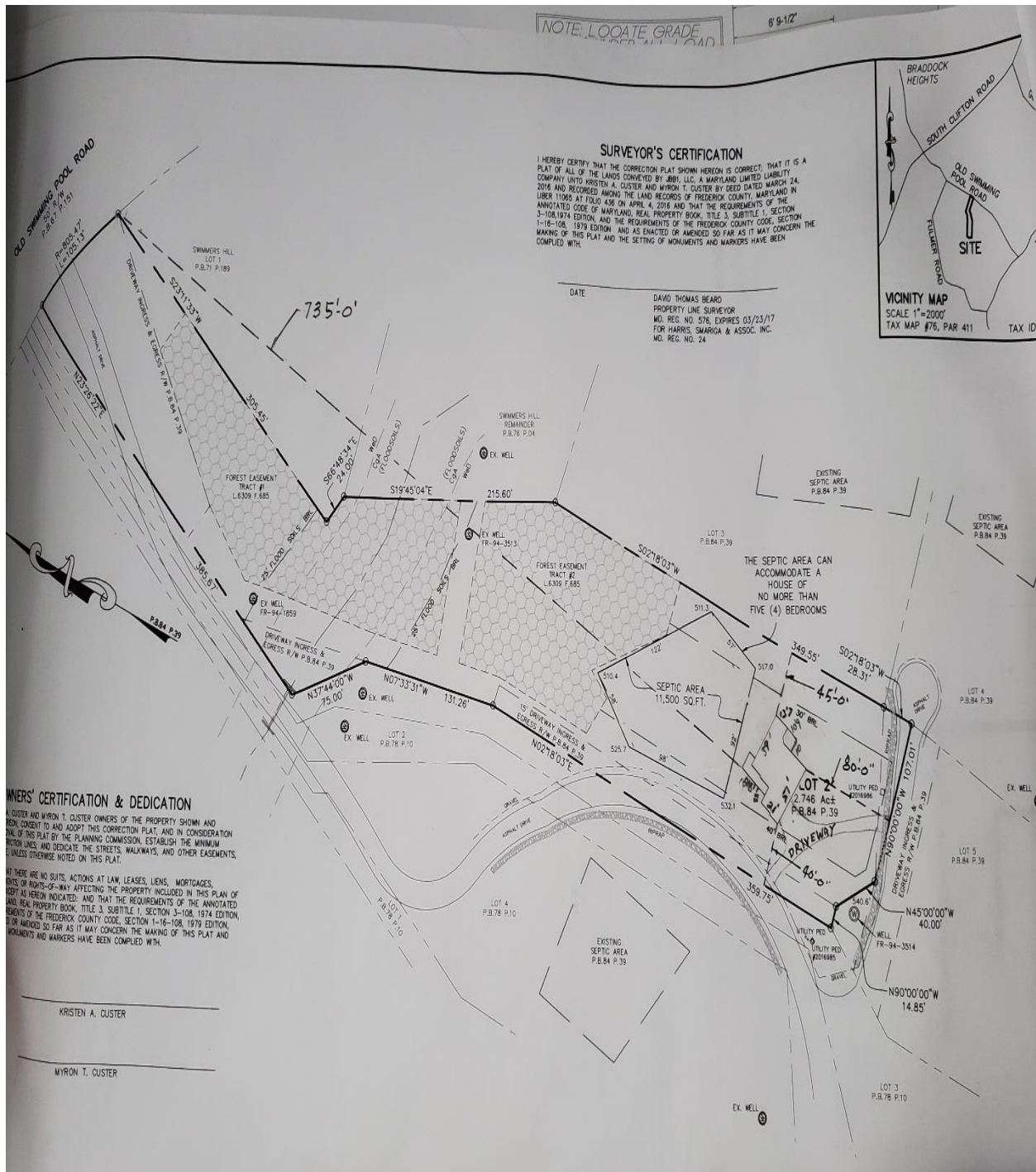
Actions Needed:

Staff requests that the Board review the general criteria for a Variance under Section 1-19-3.220 (Variances) and render a decision on the Applicant's request.

*Please note per 1-19-3.220.G (below); this variance request if approved has an expiration date two years from the date of approval.

(G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

Site Plan Provided



Site Maps:

